

# National Association of County Veterans Service Officers



## Notice Of Disagreement

# The NOD – 21-0958

(Feb 2013)

## 21-0958 Notice of Disagreement

- What you disagree with
- “Area of Disagreement”
  - Service Connection
  - Effective Date
  - Evaluation of Disability
  - Other (Specify)
- Percentage Sought (if known)
- “Why” you disagree



# NOD or Not? — ‘why’ there’s a 21-0958...

I am filing for service connection for high blood pressure.

I have been diagnosed within a year from being discharged for high blood pressure.

I am undergoing treatment for this condition currently.

I will provide medical records in support of my claim.

Based on more current medical information, I feel, my service connection for cervical strain and thoracolumbar strain should be increased.

I request a reevaluation of my thoracolumbar strain and cervical strain.

I recently had a medical exam for my back conditions.

I am submitting the private medical exam records as evidence to my claim.

I am not in disagreement with the other condition ratings I received from the VA, as I find them to be correct.

Please use all medical records I am providing as evidence to my claim.



**You win cases  
with evidence,  
not argument**



**Having said that...**

**...we're going to argue**

A green L-shaped graphic is in the top-left corner. A dark blue horizontal bar with rounded ends is positioned below the green shape.

**This example is a claim for  
Dependency and Indemnity  
Compensation denied by a  
Regional Office**

# The Claim

DIC denied with the VA saying the veteran's death is not service-connected.

We never said it was service-connected; we said his service-connected conditions materially contributed to his death from a non-service-connected condition.

I disagree with your denial of my claim for Dependency and Indemnity Compensation based on my husband's death which I claim is directly related to his military service.

My husband's death should be considered service-connected for DIC purposes under 38 CFR 3.312(a), 3.312(c)(1) and 3.312(c)(3).

Specifically, the medical evidence provided clearly shows that my husband's service-connected lung conditions rendered him "less capable of resisting" the effects of the non-service-connected heart condition which caused his death as described in 38 CFR 3.312(c)(3).



Dr. David's letter dated March 14, 2005 clearly states that he was unable to treat my husband as he 'normally' would because of my husband's lung conditions. Dr. David was my husband's treating physician and most experienced in his care.

...Private physician says he cannot treat the veteran as he normally would

...clearly shows the negative affects of the service-connected condition on his non-service-connected condition

Also, the VA examiner said that although the lung disease, in his opinion, did not cause or aggravate the coronary artery disease (CAD), his service-connected chronic bronchitis “could place him at higher risk for intra- and peri-operative complications, should he undergo coronary artery bypass surgery.” This statement supports Dr. David’s statements that my husband’s service-connected lung conditions limited the treatment options for his CAD.

...the VA doctor’s “negative” statement actually supports our contention because he, too, says treatment may be limited.



**...in the two following slides we cite the pertinent regulations  
we think support our claim...**

The medical evidence of record, consisting of three medical opinions, and the regulations (38 CFR 3.312(a) Cause of Death, “The death of a veteran will be considered as having been due to a service-connected disability when the evidence establishes that such disability was either the principal or a contributory cause of death”, 3.312(c)(1) Contributory cause of death, in pertinent part, “In determining whether the service-connected disability contributed to death, it must be shown that it...combined to cause death; that it aided or lent assistance to the production of death”,

and 3.312(c)(3), in pertinent part, “Service-connected diseases or injuries involving active processes affecting vital organs should receive careful consideration as a contributory cause of death, the primary cause being unrelated, from the viewpoint of whether there were resulting debilitating effects and general impairment of health to an extent that would render the person materially less capable of resisting the effects of the other disease or injury primarily causing death.”), emphasis added, positively support my contentions, therefore my claim for DIC benefits should be awarded effective on the date filed.



**...now we close, asking directly for a grant of benefits and citing the VA's "standard" for adjudicating claims...**

If you cannot grant my claim based on the overwhelming positive evidence submitted and after giving due consideration under Reasonable Doubt, in that “the VA’s policy is to give the law broad interpretation consistent with the facts shown and resolve reasonable doubt in the veteran’s favor” (38 USC 5107(b), 38 CFR 3.102, and 4.3), I request a personal hearing at the Regional Office.